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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/589,536

Filing Date: August 16, 2006

Appellant(s): ABRAHAM-FUCHS ET AL.

Donald J. Daley
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed February 10, 2011 appealing from the Office action mailed June 24, 2010.

(1) Real Party In Interest

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

2004/0122719

Sabol et al.

6-2004

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-19 and 22-30 are rejected under 35 U.S.C. 102(e) as being anticipated by

Sabol et al. (US 2004/0122719).

CLAIM 1.

Sabol et al. teach(s) a method for the quality evaluation of electronically stored, knowledge data the method comprising:

- storing knowledge data in a database of a memory; and correlating quality data with the knowledge data stored in the database, where correlating includes, a user at least one of storing the quality data in the database at least one of during and after access to the knowledge data, and storing result data (see at least Paragraph 0004, i.e. prescribable data) from an application of the knowledge data in a result database and correlating quality data with the result data, the application of the knowledge data being automatically generated and stored in the database, and the quality data automatically being provided to the user, upon the user accessing the knowledge data, wherein the quality data indicates a content quality of the knowledge data stored in the database, (see at least Figure 1, Paragraph 0061 and 0079)

CLAIM 2.

Sabol et al. further teach(s) a method claimed in claim 1:

- wherein the user applies the knowledge data, and quality data correlated with the results of the application are stored in the database (see at least Figure 1, Paragraph 0061 and 0079).

CLAIM 3.

Sabol et al. further teach(s) a method claimed in claim 1:

- wherein quality criteria correlated with the knowledge data are stored in the database (see at least Paragraph 0079 and 0297).

CLAIM 4.

Sabol et al. further teach(s) a method claimed in claim 1:

- wherein an identification of the user is assigned to the quality data and stored in the database (see at least Paragraph 0335 and 0342).

CLAIM 5.

Sabol et al. further teach(s) a method claimed in claim 1:

- wherein the user determines quality data with a time delay after application of the knowledge data, and the user is automatically requested to store the quality data in the database (see at least Paragraph 0072, wherein archive module 84 permits the raw, semi-processed, and processed data to be stored either locally at the acquisition system or resource, or remote therefrom, such as in a database, repository, archiving system (e.g. PACS), and so forth.)

Examiner notes that Paragraph [0032] states that the user determines quality data with a time delay.

CLAIM 6.

Sabol et al. further teach(s) a method claimed in claim 1:

- wherein the result database is at least one of an electronic patient database and an electronic hospital information system, and patient outcome data are stored as result data in the result database (see at least Figure 1, Paragraph 0061 and 0079).

CLAIM 7.

Sabol et al. further teach(s) a method claimed in claim 1:

- wherein quality data are determined from the result database according to quality criteria, and the quality data are stored in the database (see at least Figure 1, Paragraph 0061 and 0079).

CLAIM 8.

Sabol et al. further teach(s) a method claimed in claim 1:

- wherein quality data are determined from the result database according to the quality criteria with a time delay, and an access path to the result database is assigned to the quality criterion (see at least Figure 1, Paragraph 0061, 0072 and 0079).

CLAIM 9.

Sabol et al. further teach(s) a method claimed in claim 8:

- wherein a result database denoted by the access path is automatically checked for the presence of the result data assigned to the quality criteria (analysis of data), and when the result data are present, quality data are generated from them according to the quality criteria and stored in the database.

(see at least Paragraph 0079)

CLAIM 10.

Sabol et al. further teach(s) a method claimed in claim 1:

- wherein a quality measure is determined as quality data, and a determination instruction for the quality measure is stored in the database.

(see at least Paragraph 0079)

CLAIM 11.

Sabol et al. further teach(s) a method claimed in claim 10:

- wherein the determination instruction is at least one of a formula and an expert rule (see at least Paragraph 0408).

CLAIM 12.

Sabol et al. further teach(s) a method claimed in claim 1:

- wherein different users use the same knowledge data and quality data assigned to the users are determined therefrom, and a ranking of the success rate of the users is calculated from the quality data (see at least Paragraph 0332 and 0417).

CLAIM 13.

Sabol et al. further teach(s) a method claimed in claim 1:

- wherein comparable knowledge data are used and quality data assigned to the knowledge data are determined therefrom, and a ranking of the quality of the knowledge data is calculated from the quality data (see at least Paragraph 0332 and 0417).

CLAIM 14.

Sabol et al. further teach(s) a method claimed in claim 1:

- wherein knowledge data are released for use by the user only after the user has assigned their identification to the knowledge data or an access path for result data from the use of the knowledge data (see at least Paragraph 0342). (see at least Figure 1-3, Paragraph 0061, 0079 and 0342)

CLAIM 15.

Sabol et al. further teach(s) a method claimed in claim 1:

- wherein knowledge data are released for use by the user only after the user has paid a fee, and the user receives a reimbursement of the fee after storing the quality data (see at least Paragraph 0441).

CLAIM 16.

Sabol et al. further teach(s) a method claimed in claim 1:

- wherein the use of the knowledge data is chargeable to the user, and the quality data, but not the assigned knowledge data, is freely viewable by the user (see at least Paragraph 0441).

CLAIM 17.

Sabol et al. further teach(s) a method claimed in claim 1:

- wherein the date of the creation of the quality data is stored in the database together with the quality data (see at least Paragraph 0392).

CLAIM 18.

Sabol et al. further teach(s) a method claimed in claim 1:

- wherein at least one of medical treatment recommendations advice is stored as knowledge data (see at least Paragraph 0326).

CLAIM 19.

Sabol et al. further teach(s) a method claimed in claim 1:

- wherein medical guidelines are stored as knowledge data (see at least Figure 1-3, Paragraph 0061 and 0079).

CLAIMS 20.-21. (canceled)

CLAIM 22.

Sabol et al. further teach(s) a method claimed in claim 2:

- wherein quality criteria correlated with the knowledge data are stored in the database (see at least Figure 1-3, Paragraph 0061 and 0079).

CLAIM 23.

Sabol et al. further teach(s) a method claimed in claim 6:

- wherein quality data are determined from the result database according to quality criteria, and the quality data are stored in the database (see at least Figure 1-3, Paragraph 0061 and 0079).

CLAIM 24.

Sabol et al. further teach(s) a method claimed in claim 6:

- wherein quality data are determined from the result database according to the quality criteria with a time delay, and an access path to the result database is assigned to the quality criterion (see at least Figure 1-3, Paragraph 0061, 0079 and 0342).

CLAIM 25.

Sabol et al. further teach(s) a method claimed in claim 7:

- wherein quality data are determined from the result database according to the quality criteria with a time delay, and an access path to the result database is assigned to the quality criterion (see at least Figure 1-3, Paragraph 0061, 0079 and 0342).

CLAIM 26.

Sabol et al. further teach(s) a method claimed in claim 23:

- wherein quality data are determined from the result database according to the quality criteria with a time delay, and an access path to the result database is assigned to the quality criterion (see at least Figure 1-3, Paragraph 0061, 0079 and 0342).

CLAIM 27.

Sabol et al. further teach(s) a method claimed in claim 26:

- wherein a result database denoted by the access path is automatically checked for the presence of the result data assigned to the quality criteria, and when the result data are present, quality data are generated from them according to the quality criteria and stored in the database (see at least Figure 1-3, Paragraph 0061, 0079 and 0342).

CLAIM 28.

Sabol et al. further teach(s) a method claimed in claim 1:

- wherein the knowledge data is medical knowledge data (see at least Figure 1-3, Paragraph 0061, 0079 and 0342).

CLAIM 29.

Sabol et al. teach(s) a method for quality evaluation of electronically stored knowledge data the method comprising:

- storing knowledge data in a database of a memory; correlating quality data with the knowledge data stored in the database; and automatically providing, upon the user accessing the knowledge data, the quality data to the user wherein the quality data indicates a content quality of the knowledge data stored in the database (see at least

Figure 1-3, Paragraph 0061, 0079 and 0342).

CLAIM 30.

Sabol et al. further teach(s) a method claimed in claim 29:

- wherein the knowledge data is medical knowledge data (see at least Figure 1-3, Paragraph 0061, 0079 and 0342).

(10) Response to Argument

Regarding rejection of claims 1-6, 9-19 and 22-30 under 35 U.S.C. 102(e):

Appellant argues that:

Sabol fails to disclose "correlating quality data with the knowledge data stored in the database" where "the quality data indicates a content quality of the knowledge data stored in the database," as recited in claim 1. In response to the above arguments, the Examiner initially states that claim 1 recites "merely a database, whether it stores knowledge data or quality data."⁷ Appellants find such a conclusion to be clearly erroneous as claim 1 is method which actively recites "storing" and "correlating" steps, with the "correlating" step including multiple sub-steps

Examiner Answer:

As stated in Applicants specification, when storing the knowledge and quality data, it is not important whether they are stored together in one database or in different distributed databases, even networked over large distances. Users are persons who read (while reading data is correlated by user), store or forward the knowledge data. From this Examiner interprets that knowledge data and quality data are merely titles of the data being stored since there is no further limitation of the two (or more) in the specification. Sabol et al. does not expressly teach the specific data recited in claims. These differences are only found in the non-functional descriptive material and are not functionally involved in the manipulative steps of the invention nor do they alter the recited structural elements; therefore, such differences do not effectively serve to patentably distinguish the claimed invention over the prior art. The manipulative steps of the invention would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability as the claimed invention fails to present a new and unobvious functional relationship between the descriptive material and the substrate, *see In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); In re Ngai, 367 F.3d 1336, 1336, 70 USPQ2d 1862, 1863-64 (Fed. Cir. 2004); MPEP § 2106.*

Appellant argues that:

Sabol fails to disclose or suggest any quality data and quality criteria.

Examiner Answer:

As per quality data please refer to above. Indicated by the specification, the user may assign a quality measure to the knowledge data with the aid of freely selectable quality criteria. A freely selectable quality criterion is, for example, asking the user "How helpful was the information for you?" Sabol teaches; In practice, one would use all the available data for the analysis. In the case of medical images, several different visualization methods can be employed. Results of temporal comparisons can be simultaneously displayed or overlaid on one another using a logical operator based on some *pre-specified criterion*. Quality criteria is not explicitly taught in Applicants specification, therefore the Examiner interpreted as the criterion taught by Sabol et al. in the prior art of reference.

Appellant argues that:

Sabol fails to anticipate "quality data are determined from the result database according to the quality criteria with a time delay, and an access path to the result database is assigned to the quality criterion," as recited in claim 8.

Examiner Answer:

Examiner understands the determining data is a function that can be done by an individual after collecting the data from the suitable database. The Applicants specification reads "If the user determines quality data with a time delay after application of the knowledge data, then the user may be automatically requested to store the quality data in the database at predetermined times." With no further information on "time delay," Examiner interprets this as gathered data through a period of time. Sabol et al. teaches the integration of information over time that is further illustrated in FIG. 7. As shown in FIG. 7, the various data collected, processed and analyzed at the various points in time. The controllable and prescribable resources 40 may be patient-specific or patient-related, that is, collected from direct access either physically or remotely (e.g. via *computer link*) from a patient. The resource data may also be population-specific so as to permit analysis of specific patient risks and conditions based upon comparisons to known population characteristics. Among the functions defined by the logical parser are certain functions for defining the user interface, and other functions for defining access to the integrated knowledge base. As illustrated in FIG. 20, such functions may include a definition of allowed input fields, as illustrated at reference numeral 292. Such fields may, in the context of a graphical user interface, be shown, not shown, or "grayed out" in a particular user interface, depending upon the factors discussed above. In addition, allowed input modes, as indicated at reference numeral 294, may be defined, again allowing various types of input, such as through the display or non-display of specific

input pages, interactive web pages, and so forth. Similarity, specific graphical interfaces may be defined by the logical parser as indicated at reference numeral 296. It should be noted, that the various interface fields, modes, and presentations identified by the logical parser based upon the input information may be stored remotely, such as in the processing system or system data repository, or locally in a management system or within a workstation 304 itself.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/EDWARD WINSTON/
Examiner, Art Unit 3686
5 May 2011

/Gerald J. O'Connor/
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